

HB0220 Favorable

Mike Maharrey
1315 Belcher Dr.
Tarpon Springs, FL, 34689

I am Mike Maharrey and I'm the national communications director for the Tenth Amendment Center.

You will hear a lot of testimony highlighting reasons to support Defend the Guard legislation today, so, I want to focus in on one specific objection - the false notion this isn't necessary because Congress has declared war, if not in those words, at least in effect, by passing Authorizations to Use Military Force or (AUMFs).

In practice, these resolutions authorize the president to decide **if and when** he wants to take military action. The AUMF passed after 9/11 to authorize the invasion of Afghanistan remains in effect today. Presidents Bush, Obama, Trump, and Biden have all used that AUMF to justify their independent decisions to take military action in the Middle East, not just in Afghanistan, but also in countries such as Somalia, Syria and Libya.

It's important to understand that an AUMF is not the same as a declaration of war. It flips the constitutional process on its head by placing decision-making power in the hands of the president. In effect, Congress tells the president, "You decide if we're going to war and then do it if you want to." This violates the constitutional separation of powers. Congress is supposed to make that determination. Basically, Congress is usurping its Constitutional responsibility to determine whether or not the US should engage in military operations.

As [James Madison put it](#), "The executive has no right, in any case to decide the question, whether there is or is not cause for declaring war."

Congress, the Pentagon, and the executive will do everything possible to continue doing what they're currently doing – running unconstitutional wars across the globe. Defend the Guard seeks to stop the states from helping them violate the Constitution.

If the passage of Defend the Guard puts pressure on Congress and hinders unconstitutional war powers, all the better. But regardless, somebody needs to draw a constitutional line in the sand. Daniel Webster once noted that checking overreaching federal powers is one of the reasons state governments even exist.

Webster made this observation in an 1814 speech on the floor of Congress where he urged actions similar to the Defend the Guard Act. He said, "The operation of measures thus unconstitutional and illegal ought to be prevented by a resort to other measures which are both constitutional and legal. It will be the solemn duty of the State governments to protect their own authority over their own militia, and to interpose between their citizens and arbitrary power. These are among the objects for which the State governments exist."

I urge you to take Webster's words to heart and vote yes on HB220.